

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

DREYER'S GRAND ICE CREAM, INC., a  
Delaware corporation, and  
EDY'S GRAND ICE CREAM, a California  
corporation,

Petitioners,

v.

ICE CREAM DISTRIBUTORS OF EVANSVILLE,  
LLC,

Respondent.

No. C 07-00140 CW

ORDER ENTERING  
DEFAULT AND  
COMPELLING  
ARBITRATION

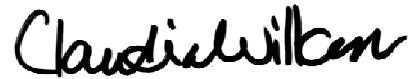
On November 4, 2008, the Court issued an Order Granting Withdrawal of Counsel for Plaintiff, wherein the Court set a case management conference for December 2, 2008, and by that date Ice Cream Distributors of Evansville ("ICD") was to be represented by counsel or case no. 07-05060 would be dismissed. The case management conference was held on December 2, 2008, and ICD was not represented by counsel. Accordingly, the Court dismissed the case.

In addition, because ICD did not appear in the above-mentioned case through counsel, as ordered, on December 2 and a corporation cannot appear through a non-lawyer, United States v. High Country Broad. Co., 3 F.3d 1244, 1245 (9th Cir. 1993), ICD is in default in this case. The Court directs the clerk to enter default against

1 ICD in case no. 07-00140. All of the facts plead in the petition  
2 are therefore taken as true except any relating to damages. Geddes  
3 v. United Fin. Group, 559 F.2d 557, 560 (9th Cir. 1977). All facts  
4 previously considered disputed in the order on the motion to compel  
5 arbitration are resolved in favor of Dreyer's Grand Ice Cream, Inc.  
6 and Edy's Grand Ice Cream. Therefore, the Court compels the  
7 parties to arbitrate their dispute within ninety days of this  
8 Order. The Court retains jurisdiction to enforce the arbitration  
9 award. A case management conference will be heard on April 14,  
10 2009 at 2:00 p.m.

11  
12 IT IS SO ORDERED.

13  
14 Dated: 12/12/08



15 CLAUDIA WILKEN  
16 United States District Judge  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

DREYER'S GRAND ICE CREAM, INC. et al,

Case Number: CV07-00140 CW

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

ICE CREAM DISTRIBUTORS OF  
EVANSVILLE et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 12, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Mr. David W. Garrett - President  
Ice Cream Distributors of Evansville, Inc.  
10430 Driver Drive  
Evansville, Indiana 47725

Dated: December 12, 2008

Richard W. Wieking, Clerk  
By: Sheilah Cahill, Deputy Clerk

United States District Court  
For the Northern District of California